

EXHIBIT 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA**

STATE OF LOUISIANA, ET AL.)	
Plaintiffs,)	Case No. 2:21-cv-00778
v.)	Honorable Judge Terry A. Doughty
JOSEPH R. BIDEN, Jr., in his official capacity as President of the United States, ET AL.)	Magistrate Judge Kathleen Kay
Defendants.)	

DECLARATION OF PETER COWAN

I, Peter Cowan, in accordance with the requirements of 28 U.S.C. § 1746, declare:

1. I am currently employed by the United States Department of the Interior, Bureau of Land Management (BLM), Headquarters Office, Division of Fluid Minerals, in Grand Junction, CO, as the Senior Mineral Leasing Specialist, a position that I have held since December 7, 2020.

2. In my role as Senior Mineral Leasing Specialist, I coordinate and develop national leasing policy and guidance; analyze the effectiveness of the leasing of oil, gas, and geothermal resources; advise leadership on the direction and management needed to meet the resource goals and objectives within the BLM; and oversee the preparation of manuals, handbooks, procedural guidance and technical reports to implement the BLM's minerals leasing program.

3. In recent years, BLM's oil and gas leasing decisions have faced numerous lawsuits under the National Environmental Policy Act (NEPA). Attached to my declaration as Exhibit C is a chart identifying the pending NEPA lawsuits. Altogether, these lawsuits challenge 5,183 oil and gas leases comprising over 4.8 million acres of land across eight BLM offices:

<u>State</u>	<u>Number of leases challenged</u>	<u>Acres</u>
CA	14	18,784.20
CO	685	526,349.28
ESO ¹	37	1,826.58
MT	824	392,056.99
NV	111	210,546.75
NM	444	191,792.48
UT	595	848,656.60
WY	2473	2,688,030.76
TOTAL	5183	4,878,043.64

4. Some of these court challenges have resulted in adverse decisions. *Center for Biological Diversity v. Forest Service*, Civ. No. 2021 WL 855938, *4 (S.D. Ohio March 8, 2021) (remanding BLM Eastern States Office's December 2016 and March 2017 lease sales for parcels in the Wayne National Forest); *Rocky Mountain Wild v. Bernhardt*, No. 2:19-CV-00929-DBB-CMR, --- F. Supp. 3d ---, 2020 WL 7264914, at *8–10 (D. Utah Dec. 10, 2020) (finding 2017 and 2018 Utah lease sale violated NEPA for failing to consider reasonable alternatives); *WildEarth Guardians v. U.S. Bureau of Land Mgmt.*, 457 F. Supp. 3d 880 (D. Mont. 2020) (finding 2017 and 2018 Montana leases sales violated NEPA for failing to consider groundwater and climate change impacts); *WildEarth Guardians v. Zinke*, 368 F. Supp. 3d 41 (D.D.C. 2019) (*WEG I*) (finding 2015 and 2016 Wyoming lease sales violated NEPA for failing to consider greenhouse gas impacts); *WildEarth Guardians v. Bernhardt*, No. CV 16-1724 (RC), 2020 WL 6701317 (*WEG II*) (D.D.C. Nov. 13, 2020) (rejecting BLM's supplemental NEPA analysis for the 2015 and 2016 Wyoming lease sales); *San Juan Citizens Alliance v. DOI*, Civ. No. 16-cv-376-MCA-JHR (D. N.M.) (June 14, 2018) (setting aside the BLM's October 2014 lease sale in

¹ ESO stands for Eastern States Office, which sells oil and gas leases in states east of the Mississippi River.

New Mexico, which included 13 oil and gas parcels and remanding for additional NEPA analysis). In light of those decisions, BLM has undertaken voluntary remands in several cases to consider additional NEPA analysis. *WildEarth Guardians v. Haaland*, Civ. No. 20-cv-0056, ECF No. 46 (D.D.C. Oct. 23, 2020) (granting BLM's motion for voluntary remand 24 NEPA decisions to review greenhouse gas analysis for 20 lease sales (2016-2019) in WY, NM, UT, CO, and MT); *WildEarth Guardians v. Bernhardt*, No. CV 16-1724 (RC), ECF No. 121 (D.D.C. July 19, 2019) (granting BLM's voluntary remand request to review greenhouse gas analysis for six Utah and Colorado lease sales).

5. In light of these NEPA challenges, BLM's NEPA workload has been growing as it presently has significant amounts of additional NEPA analysis to complete for lease sales that have already occurred. At present, BLM is obligated to do additional NEPA for at least seven lease sales involving over 200 leases and over 200,000 acres of land because the existing NEPA analysis was found to be inadequate. Additionally, BLM is presently considering additional NEPA analysis for twenty-four lease sales involving nearly 1900 leases and 1.79 million acres of land, in light of adverse decisions coupled with related pending challenges. And this tally does not account for adverse district court decisions involving five lease sales and over 600 leases that are presently on appeal.

6. In light of this growing accumulation and several recent adverse NEPA decisions, BLM postponed lease sales in the first quarter of 2021 to do additional NEPA analysis. *E.g.*, PR081-82,² Mem. from M. Leverette, BLM Eastern States Director, to M. Nedd, BLM Deputy Director, Operations (Feb. 12, 2021) (“Postpon[ing] the March 18, 2021, Competitive Oil and

² Attached at PR071-108 are true and correct copies of documents from BLM or the U.S. Department of the Interior.

Gas Lease Sale until June 17, 2021, to complete additional air quality analysis to comply with the [November 2020] WildEarth Guardians opinion.”); PR083–84, Mem. from G. Sheehan, BLM Utah State Director to M. Nedd, BLM Deputy Director, Operations (Feb. 11, 2021) (postponing the March 2021 Utah lease sale in order to address the December 2020 *Rocky Mountain Wild* decision); PR079–80, Mem. from T. Annatoyn to L. Daniel-Davis (Feb. 12, 2021) (postponing first-quarter lease sales in Montana, Colorado, Utah and Wyoming to prepare additional NEPA analysis). Another lease sale in Nevada continued a postponement from the prior administration. PR100, Errata #5, BLM Nevada (Dec. 7, 2020) (postponing December 2020 sale); PR078, Errata #1, BLM Nevada (Jan. 27, 2021) (postponing March 2021 lease sale).³ And a later lease sale in New Mexico was temporarily postponed while the Department of the Interior determined how to implement Executive Order 14,008 with respect to onshore lease sales. PR085–86, Email from L. Daniel-Davis to M. Nedd (Mar. 1, 2021).

7. The lease sale deferrals that BLM undertook in the first quarter of 2021 were not the first time that BLM has deferred lease sales in order to perform additional NEPA analysis. Under the prior administration, BLM deferred lease sales in order to better comply with NEPA, often in light of recent adverse court decisions. *E.g.*, PR091, Dear Reader Letter, BLM Montana State Office (Apr. 24, 2018) (deferring June 12, 2018 lease sale “to ensure compliance with a court order issued on March 26, 2018” regarding NEPA); PR087–88, Mem. from J. Connell to M. Nedd, (Nov. 15, 2019) Postponement of the December 19, 2019, Competitive Oil and Gas Lease Sale (postponing Colorado sale by six months to do additional NEPA analysis); PR089–90, Decision, BLM Idaho State Office (Jan. 10, 2018) (postponing March 5, 2018 Idaho sale to

³ The decision to postpone the March 2021 Nevada lease sale was posted on BLM’s website on January 25, 2021—before Executive Order 14,008 issued—though the Errata was not published until January 27, 2021.

prepare additional NEPA analysis). The prior administration also deferred lease sales “due to workload and staffing considerations.” PR099, Mem. from J. Mehlhoff to Dep. Dir., Policy and Programs, Deferral of Parcel for the Montana-Dakotas, June 23, 2020, Competitive Oil and Gas Lease Sale (Jan. 10, 2020).

8. BLM has also deferred lease sales in light of unexpected situations. Under the prior administration, BLM postponed seven lease sales in May and June of 2020 in light of complications from the COVID-19 pandemic.

9. I understand that Plaintiffs have claimed that BLM has implemented a drilling or production moratorium. That claim is inaccurate, as BLM continues to review and approve drilling permits at rates similar to the prior administration, as reflected in BLM’s most recent status report on Applications for Permits to Drill (APDs). PR107. That status report reflects that BLM approved 671 drilling permits in April 2021 alone and 3,228 APDs during Fiscal Year 2021 to date (October 1, 2020 – April 30, 2021). PR107. For this same time period in Fiscal Year 2020 (October 1, 2019 – April 30, 2020), BLM offices approved 2,537 APDs. PR108.

10. BLM has long interpreted the statutory phrase “eligible lands are available for leasing” to mean, at a minimum, that “all statutory requirements and reviews, including compliance with the National Environmental Policy Act National Environmental Policy Act (NEPA) of 1970, have been met.” PR101, PR105, BLM Manual Handbook 3101-1, Revised 1996.

11. The foregoing is based upon my personal knowledge and records kept in the ordinary course of the U.S. Department of the Interior’s business by knowledgeable individuals. If called upon, I could testify competently to the matters set forth above.

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on May 19, 2021 in Santa Fe, New Mexico.



Peter Cowan

Exhibit C - Pending Challenges to BLM Oil and Gas Lease Sales

Case Name	Court	# Sales/Leases at issue	Dates of Challenged Lease Sales	Procedural history and summary of claims
<i>WildEarth Guardians v. Bernhardt</i> 1:19-cv- 00505 (D.N.M.), 20-2146 (10th Cir.))	10th Cir.	3 / 210 in BLM CFO	NM CFO: Sept. '17, Dec. '17, Sept. '18	Greenhouse Gas (GHG) and ozone case. BLM won on all counts at the District Court and Plaintiffs appealed to 10 th Cir. On appeal, Plaintiffs allege BLM (1) fails to quantify indirect emissions of ozone precursors; (2) fails to assess cumulative impacts of ozone pollution levels; (3) fails to assess cumulative GHG emissions from future oil/gas development; (4) fails to quantify cumulative groundwater quantities and impacts due to fracking; (5) forecloses no-leasing alternatives in pending resource management plan (RMP) by issuing leases; (6) should have prepared an Environmental Impact Statement (EIS) instead of an Environmental Assessment (EA); and (7) improperly relies on Instruction Memorandum (IM) 2018-034 which violates Federal Land Policy and Management Act (FLPMA) and NEPA by reducing public participation in leasing and which required rulemaking.
<i>Diné Citizens Against Ruining the</i>	D.N.M.	3 / 42 in BLM RPFO & FFO	NM RPFO: Dec '18, Nov '19	GHG, ozone, Social Cost of Carbon (SCC) case. Plaintiffs allege BLM failed to (1) analyze cumulative GHG

<i>Environment v. Bernhardt</i> (1:20-cv-00673 KG-JHR)			NM RPFO & FFO: Feb '20	emissions and impacts by using Social Cost of Carbon or Carbon Budgeting; (2) analyze direct and cumulative human health impacts of GHG emissions and ozone; (3) analyze disproportionate effects of leasing on environmental justice populations; (4) provide for public participation to comment on draft leasing EAs.
<i>Montana Wildlife Federation v. Bernhardt</i> (CV-18-69-GF BAM)	D. Mont. Great Falls Division Appeal in 9 th Cir	2 / 287 (MT) 3 / 413 (NV) 3 / 403 (WY)	NV - December 2017 (Ely DO)(remand requested) - March 2018 (Elko DO and Carson City DO) - June 2018 (Battle Mountain DO) MT December 2017, March 2018 WY December 2017- HDD March 2018 - HPD, WRB	Sage Grouse case challenging IM 2018-026 on prioritization objective in RMPs and NEPA adequacy of leasing decisions in sage grouse habitat. Case split into phases. BLM lost first phase in District Court, Judge Morris vacated leases, BLM appealed and Judge Morris then stayed vacatur order pending decision from 9 th Cir., where oral argument took place May 6, 2021. Phase 2 fully briefed. Argument set for June 14, 2021. Phase 3 brief to be filed June 3, 2021.
<i>Western Watersheds Project v. Bernhardt</i> (18-cv-0187 REB)	D. Idaho	2 / 46 (UT) 2 / 34 (NV) 2 / 643 (WY) 3 / 48 (MT)	UT: Sept. 2017 and Sept. 2018 (Vernal, Salt Lake, Moab FOs) NV:	Sage grouse case challenging BLM IM 2018-034 on timelines for public input on EAs for oil and gas leasing. Case split into phases. BLM lost first phase in District Court, Judge Bush vacated leases, BLM appealed and

			June, September 2018 WY: February, June, September 2017; June, September 2018; February 2019 MT: June 2017; March 2019	Judge Bush stayed vacatur order pending decision from 9 th Cir. Phase 2 fully briefed and argued, Phase 3 BLM opening brief filed April 16, 2021. 9 th Circuit oral argument held May 6, 2021.
<i>WildEarth Guardians v. Bernhardt</i> (16-cv- 1724)	D.D.C. (J. Contreras)	5 / 282 (WY) 4 / 152 (CO) 2 / 39 (UT)	<p>*Ps listed specific leases in complaint.</p> <p>WY: May 2015 - HDD Aug. 2015 - HPD, WRBD Nov. 2015 - HDD May 2016 (incl. postponed Feb. 2016) - HPD, WRBD, HDD Aug. 2016 - WRBD, HPD</p> <p>CO: Feb. 2015, May 2015, Nov. 2015, May 2016 (appears to be all field offices with parcels)</p> <p>UT:</p>	<p>GHG and SCC case. March 2019 – court found GHG analyses in EAs for WY lease sales inadequate and remanded EAs/Findings of No Significant Impact (FONSIs) without vacatur of leases. Court upheld BLM’s rationale for not using SCC. BLM completed supplemental analysis; plaintiff challenged new decision. Nov. 2020 – court found WY supp. analysis inadequate, remanded without vacatur.</p> <p>After 2019 decision, court granted BLM’s request for voluntary remand of CO and UT leasing decisions, and BLM completed supplemental GHG analyses in 2019 and 2020, respectively. Plaintiffs have supplemented complaint to challenge the new decisions after supp. analysis.</p>

			May 2015, Feb. 2016 (Ps note complaint includes leases in Richfield, Cedar City, Vernal Fillmore, Moab and Price Field Offices.)	Defendants' response due 6/28.
<i>WildEarth Guardians v. Bernhardt (20-cv- 0056)</i>	D.D.C. (J. Contreras)	2/117 (MT) 1/59 (NM) Remanded: 7 / 126 (CO) 2 / 82 (MT) 1 / 36 (NM) 1 / 8 (UT) 9 / 1640 (WY)	CO: Dec. 2016 - RGFO June 2017 - KFO, LSFO, WRFO Sept. 2017 - RGFO March 2018 – TRFO [Ps incorrectly listed CRVFO, GJFO] Sept. 2018 - CRVFO, RGFO Dec. 2018 - KFO, LSFO, RGFO, WRFO March 2019 - KFO, RGFO, WRFO MT: Dec. 2016 - HiLine, Miles City June 2017 - Miles City Dec. 2018 - Miles City March 2019 - Billings, Glasgow,	GHG and SCC case. The court granted BLM's request for voluntary remand of the NEPA documentation for 20 of the challenged lease sales, without vacatur of the leases. Three lease sales remain at issue before the court. Joint briefing schedule or motions due 7/5.

			Havre, Miles City NM: Sept. 2016, Carlsbad Dec. 2018, Carlsbad UT: June 2017 – Richfield WY: Nov. 2016 - HDD Feb. 2017 - HPD, WRBD Sept. 2017 – HPD, WRBD Dec. 2017 - HDD March 2018 - HPD, WRBD June 2018, HDD Sept. 2018, HPD, WRBD Feb. 2019 [through March 1, 2019], HDD, HPD, WRBD March 19-20, 2019, HDD, HPD, WRBD	
<i>WildEarth Guardians v. Bernhardt</i> (21-cv- 0175)	D.D.C. (J. Contreras)	5/162 (CO) 8/120 (NM) 12/317 (UT) 3/373 (WY)	UT: Dec '16 (Vernal); March '17 (Monticello); June '17 (Richfield); Sept '17 (Fillmore); Dec '17 (Price);	GHG and SCC case. Plaintiffs allege BLM failed to: (1) analyze direct, indirect, cumulative GHG emissions and the severity of impacts on climate change and should have used Social Cost of Carbon or Carbon Budgeting frameworks; (2) prepare an EIS to analyze the

		<p>March '18 (Moab, Monticello); June '18 (Richfield); Sept '18 (Price, Richfield); Dec '18 (Moab, Monticello, Price, Richfield, Vernal); March '19 (Vernal); June '19 (Salt Lake); Sept '19 (Moab)</p> <p>NM: CFO: March '19, June '19, Sept '19, Feb '20, Aug '20 CFO, RFO: May '20, Oct '20</p> <p>WY (statewide): Sept '19, Dec '19, March '20</p> <p>CO: June '19 (Royal Gorge, White River, Grand J.); Sept '29 (Kremmling, Little Snake, White River, Royal Gorge); March '20 (Royal Gorge, Kremmling, Little Snake, White River,</p>	<p>significant impacts of GHG emissions from leasing; (3) prepare comprehensive, programmatic EIS of its entire oil and gas leasing program which are "connected agency decisions." Defendants' response due 6/28.</p>
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			Grand J.); Sept '20 (Royal Gorge, White River, Little Snake, Kremmling); Dec '20 (Kremmling, Little Snake).	
<i>Rocky Mountain Wild v. BLM</i> (18-cv-2468)	D. Colo.	1/62	June 2018 NWD	Case fully briefed (Claims focus on ozone pollution, lands with wilderness characteristics; GHGs are also peripheral issue.)
<i>Rocky Mountain Wild v. BLM</i> (2:19-cv-00929)	D. Utah	2/59	December 2017 Utah (Vernal FO) June 2018 Utah (Vernal FO)	Case briefed and D. Ct. issued a partially favorable decision. The Plaintiffs raised FLPMA and NEPA challenges, including a challenge to BLM's review of ozone and GHG emissions. The court ruled against the BLM on its alternatives analysis but upheld the agency's review of air quality.
<i>San Miguel County v. BLM</i> (17-cv-2432)	D. Colo.	1/10	March 2017 TRFO	Case fully briefed (Claims focus on Gunnison sage grouse, ACECs)
<i>San Miguel County v. BLM</i> (18-cv-1643)	D. Colo.	1/4	March 2018 TRFO	Case fully briefed (Claims focus on Gunnison sage grouse, ACECs)
<i>Wild Earth Guardians v. BLM</i> (21-cv-00004)	D. MT Great Falls Div.	5/112	MT/North Dakota July 2019: Billings FO (BiFO), Havre FO, Miles City FO (MCFO),	GHG and groundwater case. Answer due June 28, 2021

			North Dakota FO (NDFO). September 2019: BiFO, MCFO, NDFO December 2019: MCFO, NDFO March 2020: MCFO September 2020: MCFO, NDFO	
<i>SUWA v. Bernhardt</i> (1:20-cv-03654)	D.D.C.	2/77	UT: Dec. 2018 (Price FO) (1 lease) Sept. 2018 (Price FO) (76 leases)	Plaintiff is challenging the BLM's issuance of various rights of way (ROWS), which would support Twin Bridges' Bowknot Helium project in the Labyrinth Canon Wilderness. Claims include challenges to BLM's abandonment of the San Rafael Master Leasing Plan (MLP) and analysis of water consumption impacts. Previous GHG challenges have moved to 1:21-cv-175
<i>CBD v. Forest Service, BLM</i> (2:17-cv-372)	S.D. OH	4/65	ESO/Ohio: Dec. 2016 and Mar. 2017	Ps challenged lease issuance on multiple grounds and prevailed in challenging failure to adequately consider fracking impacts, as well as impacts to surface waters, air quality, and the Indiana bat. The court remanded without vacatur and BLM is commencing NEPA and ESA study, during which time surface-disturbing activities are enjoined.

<i>CBD v. BLM (3:19-cv-07155)</i>	N.D. Cal.	/2	CA (Central Coast Field Office (formerly Hollister Field Office): Sept. '11, Dec. '12	Plaintiffs' challenge oil and gas RMPA and supporting NEPA. Supporting NEPA was conducted pursuant to a settlement of two prior cases, Hollister I and Hollister II, challenging BLM's decision to sell leases based on EAs tiered to a PRMP and FEIS. As to two of the leases, the court determined that the BLM violated NEPA because tiering to the PRMP and FEIS for the general area did not obviate the need for an EIS because of the emergence of fracking, which wasn't considered in the PRMP or FEIS. As a result of this decision, parties agreed to a settlement whereby BLM would either suspend or not issue the leases at issue and conduct a curative NEPA analysis to determine if the leases should be issued and, if so, if additional stipulations should attach. The RMPA being challenged in this action is based on the same curative NEPA from the Hollister I and II cases. An ROD approving the RMPA and accompanying FEIS was issued October 4, 2019. Two leases from Hollister I and II have since been issued or the suspension lifted. Plaintiffs claim that BLM failed to 1) consider reasonable alternatives, 2) take a hard look at effects (GHG/air quality/climate, water, species, seismicity), 3) issue a SEIS because new
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				alternative selected, and 4) coordinate and with local governments and discuss conflicts with local government land use and health regulations. AR complete and waiting filing of summary judgment motions.
<i>CBD v. BLM (1:21-at-316)</i>	E.D. Cal.	1/7	December 10, 2020	Plaintiffs claim that BLM failed to 1) properly tier (RMP - hydraulic fracturing), 2) take a hard look at effects (air quality/ GHG, climate, water, species, and health/safety of communities), and 3) consider reasonable alternatives under NEPA.
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Case Name	Venue	# of sales / Lease parcels at issue	Dates of Challenged Lease Sales	
<i>Ojo Encino Chapter, IBLA No. 2020-0044, - 0045</i>	IBLA	1 / 30	NM RPFO Dec. '18	
<i>Ojo Encino Chapter, IBLA No. 2021-161</i>	IBLA	1 / 7	NM RPFO Feb. '20	
<i>Ojo Encino Chapter, IBLA No. 2021-162</i>	IBLA	1 / 4	NM RPFO Nov. '19	
<i>Audubon Southwest and NM Wild, IBLA No. 2021-060</i>	IBLA	1 / 9	NM CFO August 2020	

<i>SUWA, No. 2020-15 and 2020-32</i>	IBLA	2/27	UT March and June 2019 Lease Sales, Salt Lake FO	Challenged cumulative impacts analysis, including past, present, and future oil and gas development on both federal and non-federal land. Raised general GHG challenges.
<i>Center for Biological Diversity, IBLA No. 2020-0028</i>	IBLA	/2	CA (Central Coast Field Office (formerly Hollister Field Office): Sept. '11, Dec. '12	